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The author would, however, support the actual decision on two grounds: first, because the claim made was based on the theory of a several liability in each club member; and, second, because the club had been dissolved before the definite claims against the trustees matured. The latter distinction seems unsound. Mr. Williams argues that, since each member may resign at will and so free himself from all liabilities not already ripened into definite claims, all the members may by dissolving the club obtain a like immunity. But the conclusion does not follow from the premise. The equitable interest of a single resigning member passes by mutual consent to the remaining members. But the whole body of members cannot without finding a consenting transferee divest themselves of the equitable title any more than they could free themselves of a corresponding legal title. With the equitable interest the liability incident thereto would, then, survive the dissolution.

Mr. Williams is in sympathy with the doctrine of *Hardoon* v. *Belilios*, the correctness of which he assumes. The case has not, however, escaped attack. It has been urged that the trustee voluntarily accepted the responsibilities of a legal owner, and if he wished rights not belonging to him as such, he should have contracted for them. PERRY, TRUSTS, 5th ed. § 485, (a). But this involves a *petitio principii*. What he contemplated was a legal ownership *in trust*, with whatever rights are incident to such a position. The very question is as to the extent of those rights. The trustee cannot compel the *cestui* to assume the legal title. *Moore* v. *Greg*, 2 Ph. 717. It is said that the result is the same if the *cestui* is to be indirectly exposed to the burdens of legal ownership. But it should be remembered that pecuniary liability is only one of the burdens of legal ownership; and even admitting the soundness of the argument, it is perhaps a sufficient answer that to compel the trustee to retain the trust and yet give him no right of indemnity against the *cestui* is intolerably harsh. *Hardoon* v. *Belilios* has been regarded as an innovation. Yet it is undoubted law that where the trust was undertaken at the *cestui's* request the personal right against him exists. *Jervis* v. *Wolferstan*, L. R. 18 Eq. 18. *Hobbs* v. *Wayet*, 36 Ch. D. 256. These cases have been explained on the ground of implied contract. But in the ordinary case the possibility of a liability beyond the value of the *res* is not in fact contemplated by either party. The true principle would seem to be that a *cestui* when he accepts the equitable title must be held to take upon himself the liabilities. See *Whittaker* v. *Kershaw*, 45 Ch. D. 320. Natural justice demands that the burdens should fall upon him who reaps the benefits.

PUBLICATION OF BERTILLON MEASUREMENTS AND PHOTOGRAPHS AS A BASIS FOR AN ACTION OF LIBEL. — The Bertillon system of measurements and photographs has become widely established for the discovery and identification of criminals. So far as the subjects are really suspicious characters, the system cannot be criticised; but occasionally it is used upon a perfectly innocent man who has been accused and acquitted of crime. A recent writer calls this situation a "crying evil," and argues that such a victim should recover in an action for libel against the sheriff. *Publication of Bertillon Measurements and Photographs of Prisoners, Innocent or Acquitted of the Crimes Charged against Them*, Anon., 57 Central L. J. 261 (Oct. 2, 1903). The article assumes that there is no trespass to the person or invasion of any right of privacy in taking the photographs. A writ of mandamus to compel the sheriff to destroy or surrender the data has been denied, because such destruction or surrender was not the sheriff's official duty. *In re Molineux*, 83 N. Y. Supp. 943. An injunction to restrain the sheriff from circulating the picture has been also refused on the ground that in the United States equity will not enjoin the publication of a libel. *Owen* v. *Partridge*, 82 N. Y. Supp. 248. With these decisions the article agrees, but insists that the sheriff should be liable in an action for libel for publishing the plaintiff's photograph in a connection which implies that he is at least to be suspected of crime.

The only case which has been found on the point refused recovery against the sheriff on his official bond, holding that the publication was not an official act. *Bruns* v. *Clausmeier*, 154 Ind. 599. The actual ground of this decision seems questionable, and the court avoided the important issue as to whether there was any actionable libel. To such an action truth would be a possible defence, but could be proved only in a minority of cases. Absolute privilege should be denied, since it is recognized in the United States only in very exceptional cases, and in the present instance there appears to be no clear demand for such extraordinary protection. On the other hand, conditional privilege would seem appropriate, for an efficient control of criminals apparently requires, for one thing, that the sheriff send descriptions of those whom he suspects to other public officers having a corresponding duty and interest. *Harrison* v. *Bush*, 5 E. & B. 334. Conditional privilege may, however, be lost in four ways. First, by exceeding the reasonable necessities of the occasion, either in the matter collected or in the manner of its use. But this fails in the present instance, since only regulation data are sent and in a regular way. Secondly, if the defendant acted with any motive except the proper one of duty. Thirdly, if he did not honestly believe the plaintiff to be a suspicious character. In the two latter cases there would seem to be no reason or policy in protecting the sheriff from liability. Fourthly, according to some authorities, his privilege is lost if his belief is not reasonable as well as honest. *Carpenter* v. *Bailey*, 53 N. H. 590. England and one or two of the United States are *contra*, but the question has not often been adjudicated. *Clark* v. *Molyneux*, 3 Q. B. D. 237. Probably each jurisdiction will apply a uniform rule to all cases of conditional privilege. The present case then merges into the general inquiry, whether the defendant is sufficiently protected in the exercise of his functions, if he may without liability damage the plaintiff by a falsehood so long as he acts reasonably and honestly; or whether it is wiser that in matters frequently of nice estimate the defendant should be free to exercise his discretion, so long as he acts honestly and with proper motive, without the restraint necessarily imposed by liability according to an external standard. On the whole the latter view seems more expedient, particularly in the large class of cases where privilege rests on official duty. Accordingly the sheriff should be liable in an action for libel only where he has acted with improper motive or without honest belief in the truth of the publication.

FRAUDULENT ALTERATION OF COMMERCIAL PAPER NEGLIGENTLY DRAWN. — Few legal questions touch the business world more closely than those relating to commercial paper. Negotiable instruments have come to be used almost as if they were money, and their safe and ready circulation, therefore, is a matter of great importance. Since they are exposed to the dangers of fraudulent alteration even more than the ordinary currency of the country, it becomes desirable that every legal precaution should be taken to preserve them intact. Whether the law should aid in this matter by holding liable one who through his negligence has facilitated the alteration of commercial paper and thereby caused an innocent party loss, is an interesting question. The English law on the point has recently been reviewed by Mr. G. H. A. Montgomery. *Fraudulent Alteration and the Effect of Negligence*, 2 Can. L. Rev. 632 (Sept. 1903).

In the opinion of the author the English decisions establish two principles. First, as between drawer and acceptor, the former owes a duty so to draw as not to facilitate alteration, and he must answer to the latter for any loss resulting from failure to observe that duty. Secondly, as between the drawer or acceptor and subsequent parties there is no such duty, and, consequently, no liability for a failure to observe it. The first of these conclusions rests on a decision handed down seventy-five years ago. *Young* v. *Grote*, 4 Bing. 253. The case has never been overruled, but it is difficult to say whether it would be followed on the facts to-day. Recent utterances of English judges point decidedly the other way.